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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,428	01/06/2005	Klause Lenhart	2502 0171US	9910

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DREISS, FUHLENDORF, STEIMLE & BECKER
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GERMANY

EXAMINER

OLSZEWSKI, JOHN

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/520,428

Applicant(s)

LENHART, KLAUSE

Examiner

John R. Olszewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 and 27 is/are rejected.
- 7) ☒ Claim(s) 25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06 January 2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. **None of the certified copies of the priority documents have been received in the National Stage application from the International Bureau (PCT Rule 17.2(a)).**

Information Disclosure Statement

2. **The listing of references in the specification is not a proper information disclosure statement.** 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

- Specifically, DE 299 04 591 U1, has not been disclosed on the IDS

Drawings

3. **The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:**

- Item 47: inclined guiding surface

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

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"Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. **The abstract of the disclosure is objected to because the abstract is over 150 words in length.** Correction is required. See MPEP § 608.01(b).

5. **The disclosure is objected to because of the following informalities:**

- *Abstract:* In the second line the use of (11) after "provided with" makes the sentence mildly confusing, and would be best removed from the sentence.
- *Summary of the Invention:* In the second paragraph, 5th line, "its is" makes the sentence confusing, and removing "is" would improve the sentence.
- *Description of Preferred Embodiment:* A few of the items are not consistent in how they are referred to:
 - Item 14: Firstly referred to as a cover, and then referred to as a coating
 - Item 42: Firstly referred to as an axle, then a pivot axis, and then a pivot axle
 - Item 27: Firstly referred to as an opening and then referred to as a recess
 - Item 29: Firstly referred to as the longitudinal axis, and then referred to as a longitudinal slit

Appropriate correction is required.

Claim Objections

6. Claim 13 is objected to because of the following informalities:

- In line 20 of claim 13: "said a actuating member" should be "said actuating member"

Appropriate correction is required.

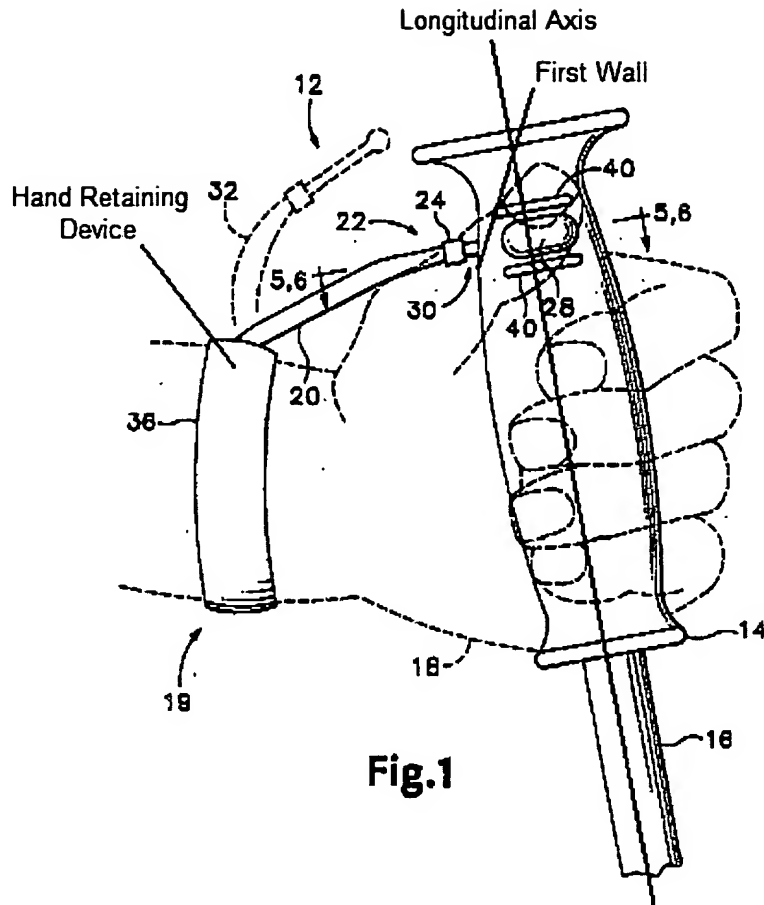
Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 13 is rejected under 35 U.S.C. 102(b.) as being anticipated by Wells (US 5,549,330).

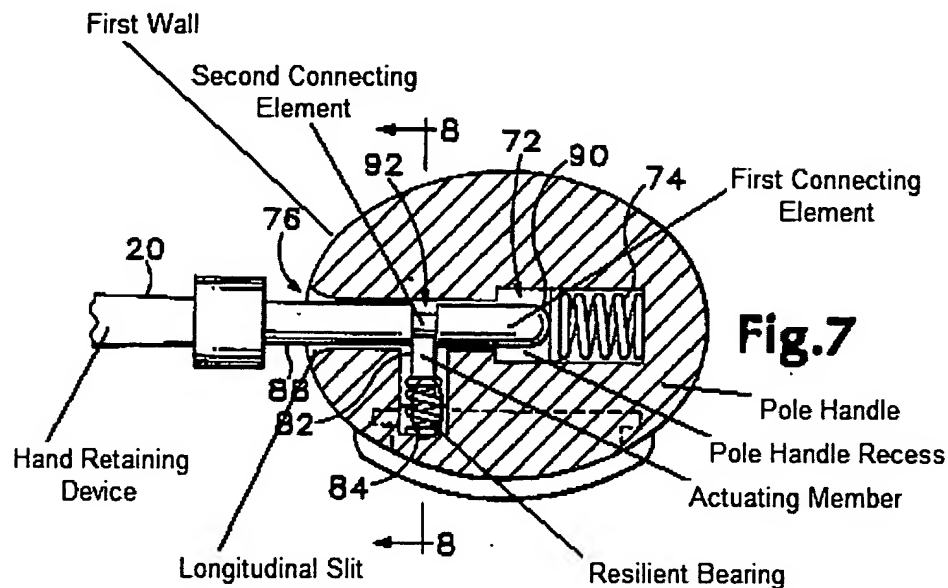
Claim 13:

- A hand retaining device (Figure 1)
- A first connecting element integral with the hand retaining device (Figure 7)
- First connecting element for detachably locking the hand retaining device to the pole handle (Figure 7)
- Means defining a pole handle recess (Figure 7)
- Recess defining means having a first wall facing the hand retaining device (Figures 1 and 7)
- The first wall having a longitudinal slit providing access to said pole handle recess for insertion and removal of the first connecting element (Figures 1 and 7)
- The longitudinal slit extending parallel to or at an angle with respect to a longitudinal pole axis (Figure 1)



- A second connecting element disposed in said pole handle recess to cooperate with said first connecting element (Figure 7)
- An actuating member communicating with the second connecting element (Figure 7)
- The actuating member structured and dimensioned for access in a region of a pole handle head (Figure 7)
- A resilient bearing cooperating with the actuating member to oppose the second connecting element motion caused by the actuating member (Figure 7)

- The longitudinal slit extends from above to below a range of motion of the second connecting element (Figure 7)

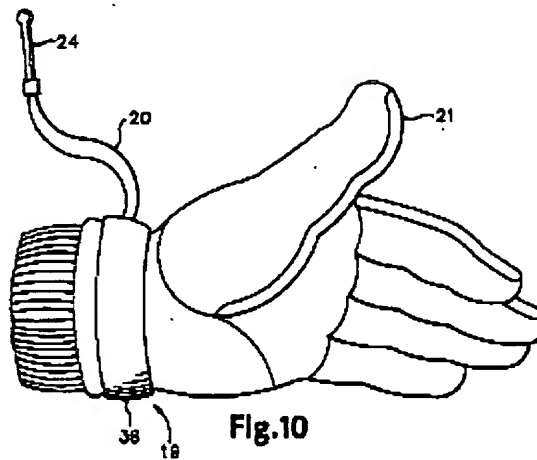


Claim 14:

- Pole handle is structured and dimensioned for cross-country skiing, alpine skiing or Nordic walking. The handle disclosed by wells is meant for a skiing pole and therefore reads on this claim.

Claim 15:

- Hand retaining device comprises a toggle strap or a glove (Figure 10). Discloses a glove being attached to the pole strap.



Claim 16:

- The longitudinal slit can be accessed in a region of a handle head front face
(Figure 2)

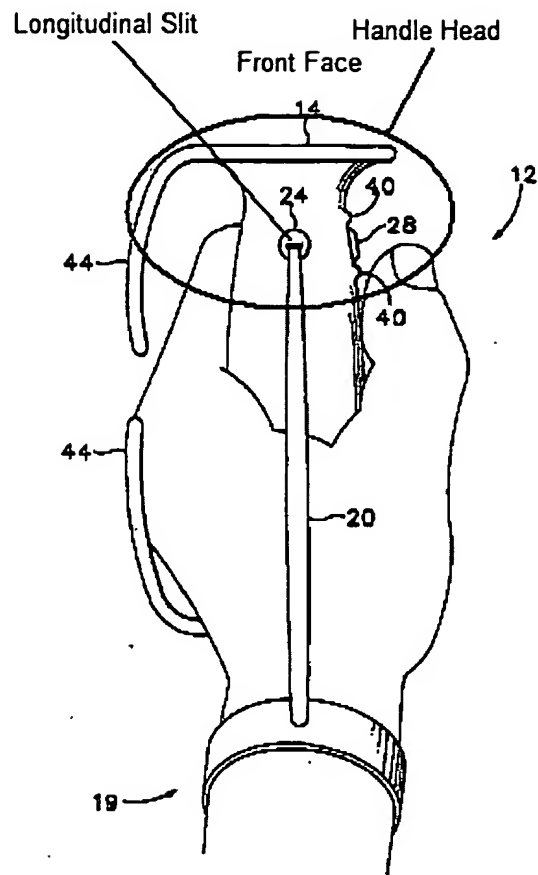
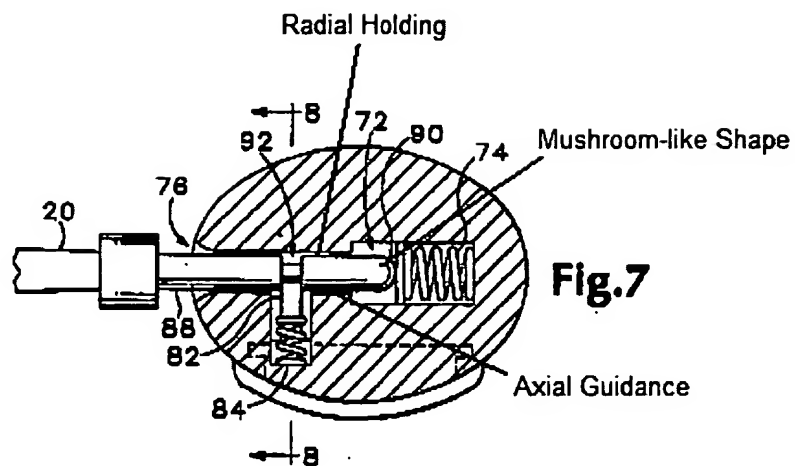


Fig.2

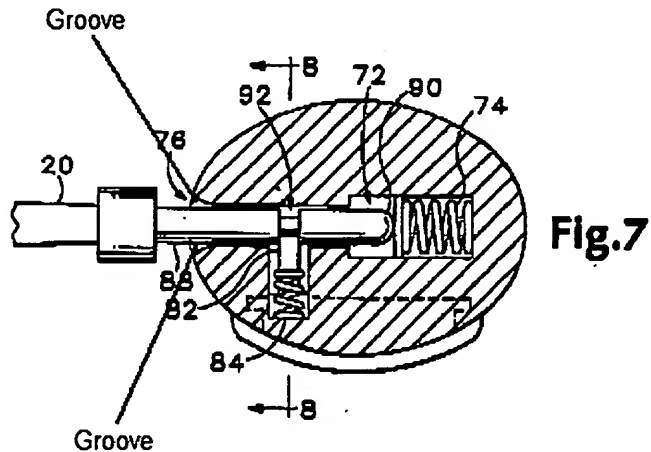
Claim 17:

- First connecting element comprises a mushroom-like or other undercut shape for axial guidance and radial holding in the longitudinal slit (Figure 7)



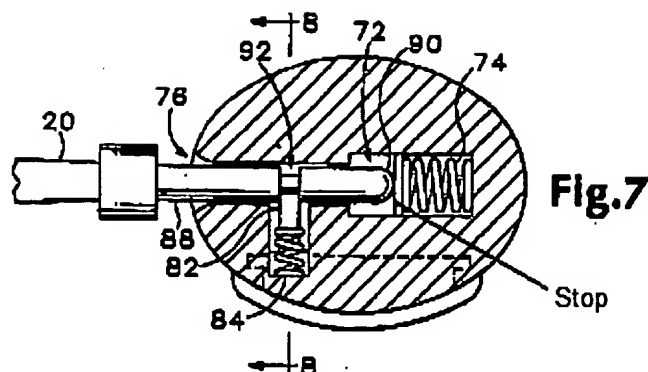
Claim 18:

- The first wall has opposite grooves which guide the first connecting element (Figure 7)



Claim 19:

- An end of the longitudinal slit defines a stop for the first connecting element during insertion into the pole handle recess (Figure 7)



Claim 27:

- A cross-country, alpine ski pole, or nordic walking pole comprising the pole handle of claim 13. Wells discloses the handle on a skiing pole.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

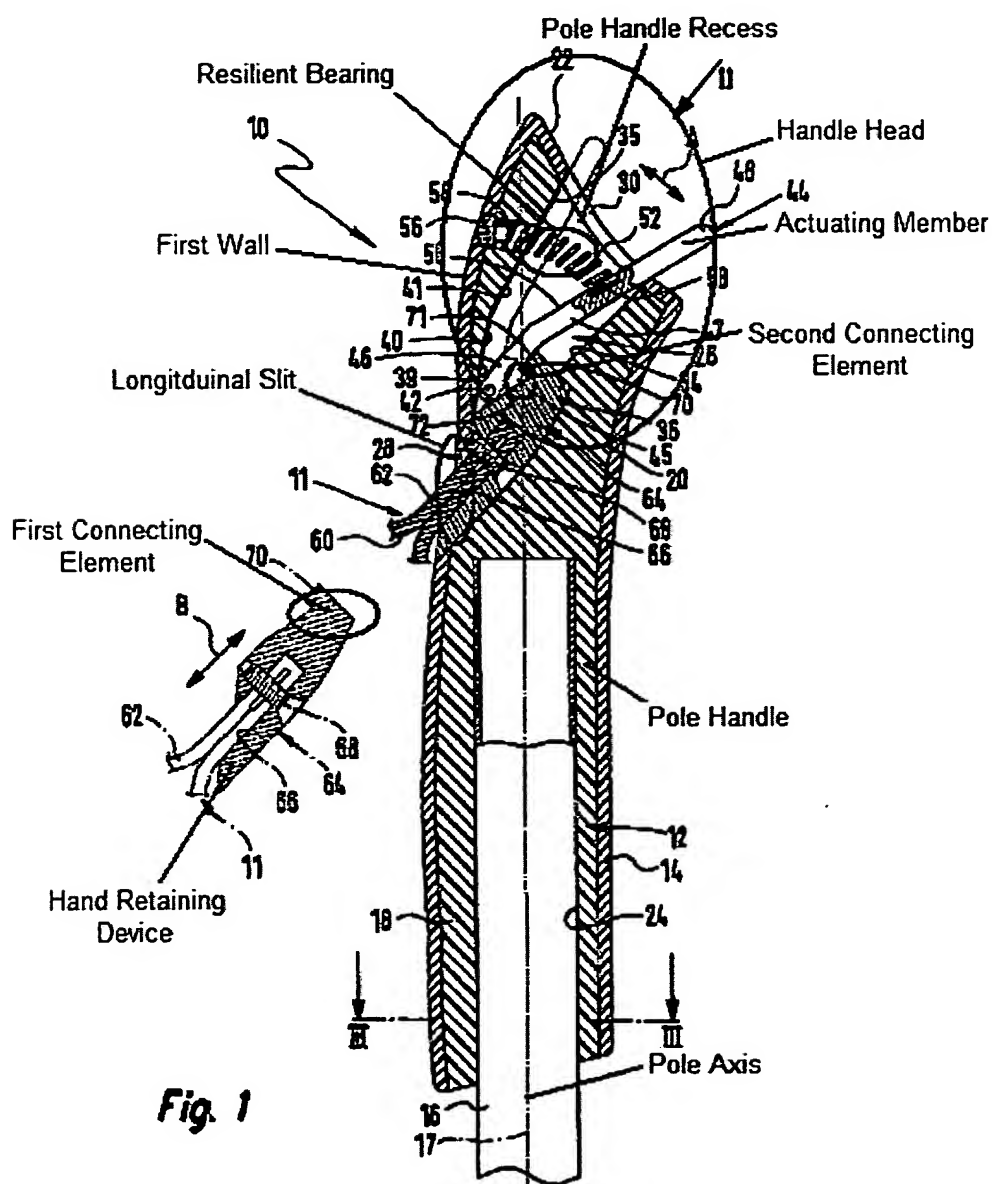
1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 8. Claims 13, 20-21, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart (US 6,325,418).**

Claim 13:

Lenhart discloses:

- A hand retaining device (Figure 1)
- A first connecting element integral with the hand retaining device (Figure 1)
- First connecting element for detachably locking the hand retaining device to the pole handle (Figure 1)
- Means defining a pole handle recess (Figure 1)
- Recess defining means having a first wall facing the hand retaining device (Figure 1)
- The first wall having a longitudinal slit providing access to said pole handle recess for insertion and removal of the first connecting element (Figure 1)
- The longitudinal slit extending parallel to or at an angle with respect to a longitudinal pole axis (Figure 1)
- A second connecting element disposed in said pole handle recess to cooperate with said first connecting element (Figure 1)
- An actuating member communicating with the second connecting element (Figure 1)
- The actuating member structured and dimensioned for access in a region of a pole handle head (Figure 1)
- A resilient bearing cooperating with the actuating member to oppose the second connecting element motion caused by the actuating member (Figure 1)

- The longitudinal slit extends from above to below a range of motion of the second connecting element (Figure 1). It would be obvious to one of ordinary skill in the art to rearrange parts as to allow for the longitudinal slit to be above and below a range of motion of the second connecting element so as to allow for a larger and more substantial hand retaining device to be inserted into the longitudinal slit.



Claim 20:

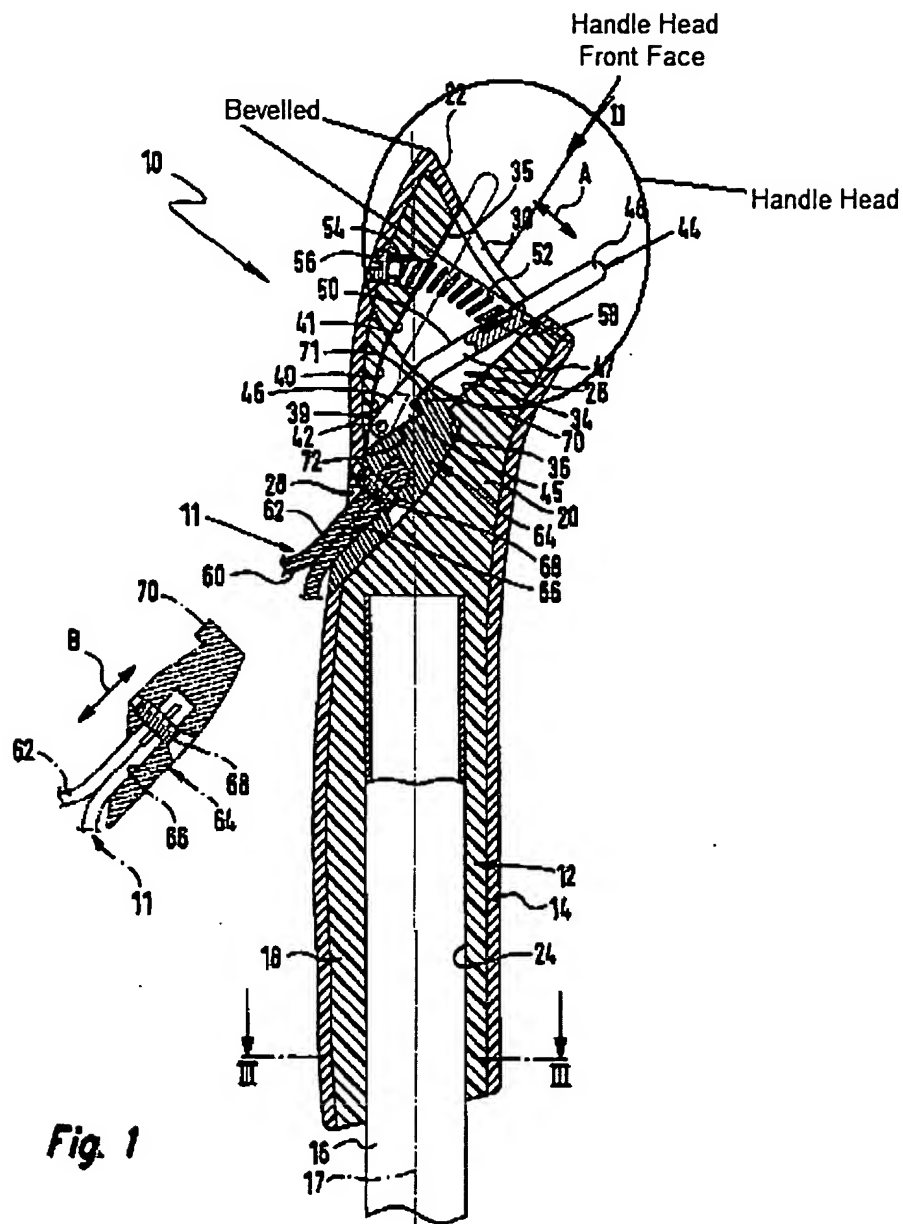
Lenhart discloses:

- A handle head front face of the pole handle defines a longitudinal opening through which the actuating member projects (Figure 1)

Claim 21:

Lenhart discloses:

- The front face is beveled (Figure 1)



Claim 22:

Lenhart discloses:

- Actuating member comprises a first lever which is pivotally disposed in the pole handle recess (Figure 1)

Claim 23:

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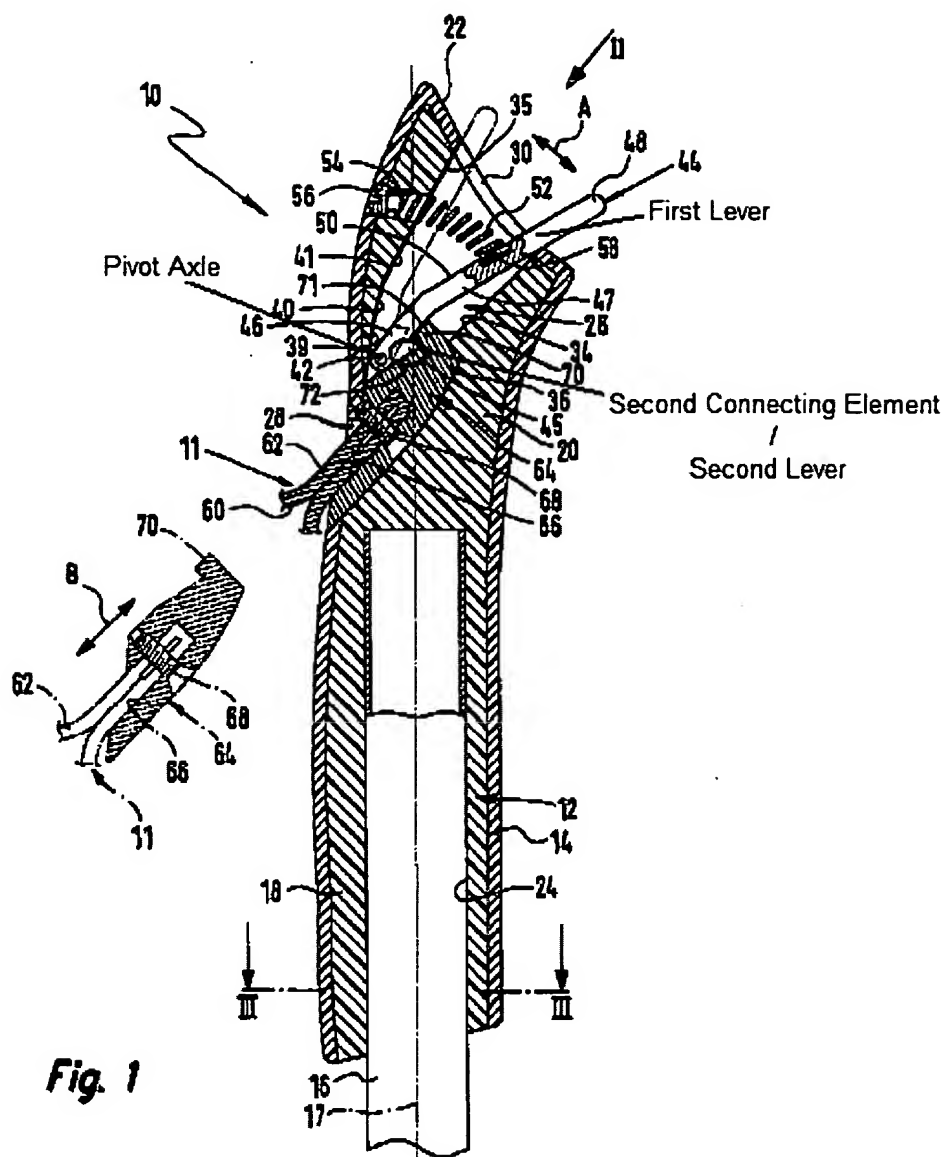
Lenhart discloses:

- The first lever is integral with the second connecting element to define a two-armed lever (Figure 1)

Claim 24:

Lenhart discloses:

- The two-armed lever is hinged to a pivot axle which is disposed proximate to the first lever (Figure 1)



Allowable Subject Matter

- 9. Claims 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

Conclusion

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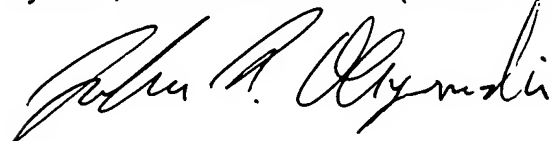
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Allsop (US 3,582,100) and Kustritz (US 6,491,323)
 - Disclose attached hand retaining devices

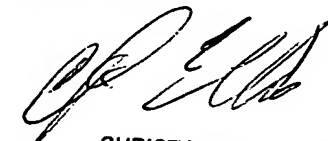
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John R. Olszewski whose telephone number is 571-272-2706. The examiner can normally be reached on M-Th 5:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JRO



09/12/2006
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